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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,786	08/09/2001	James Davis	STAT1150	5372
6980 7590 08/09/2007 TROUTMAN SANDERS LLP 600 PEACHTREE STREET, NE ATLANTA, GA 30308			EXAMINER CHANG, JULIAN	
			ART UNIT 2152	PAPER NUMBER
			MAIL DATE 08/09/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/925,786

Applicant(s)

DAVIS ET AL.

Examiner

Julian Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This Office action is responsive to communication filed on 05/22/07. Claims 1-27 are pending.

***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-6 and 8-26, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham et al. (US 6,124,806), hereafter "Cunningham" in view of Robert E. Kahn (The Organization of Computer Resources into a Packet Radio Network, IEEE, 1977, hereinafter "Robert").
4. The rejection of claims 1, 15 and 23 in the Office action mailed on 01/22/07 is maintained, and is hereby incorporated by reference.
5. The rejection of claims 2-6, 8-14, 16-22 and 24-26 in the Office action mailed on 05/02/2006 is maintained, and is hereby incorporated by reference.
6. Claims 7 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham in view of Robert as applied to claims 1-6 and 8-26 above, and further in

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view of Jil A. Westcott (Issues in Distributed Routing for Mobile Packet Radio networks), IEEE, 1982, hereinafter "Jil".

7. The rejection of claims 7 and 27 in the Office action mailed on 05/02/2006 is maintained, and is hereby incorporated by reference.

***Response to Arguments***

8. Applicant's arguments filed 05/22/07 have been fully considered but are not persuasive.

a. Applicant argues that Cunningham fails to teach managing communication based on the identification of each of the plurality of communication devices in one or more communication paths. Applicant contends that the SIM identification sent in the 32 bit packets taught by Cunningham is not used to "manage" communication.

Applicant is reminded that the claims are examined under their broadest reasonable interpretation. The American Heritage College dictionary, fourth edition, defines manage as *to succeed in accomplishing or achieving*. Under this broad, but reasonable, interpretation of manage, one can interpret managing communication based on the identification of communication devices as simply achieving communication using said identification.

The SIM identification taught by Cunningham is used to communicate information collected at a SIM to a DCM. The DCMs use the SIM identification to

differentiate the received information from the various SIMs. Therefore, the SIM identifications are used to “manage” or achieve communication.

b. In response to applicant's argument that the inclusion of multiple identifiers in Cunningham's packet would alter Cunningham's system in such a way it could not determine one SIM from another, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

c. Applicant argues that the statement “Robert's “station” can be considered a “smart” repeater because a packet radio at a station has the functionality of both a packet radio at a terminal and a repeater” is unsupported by Robert. The support can be found at the second paragraph of the right column in page 174. Therein Robert discloses that the packet radio at the station is logically equivalent to a packet radio at a terminal...may also serve as a repeater in the multistation case.

d. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant

relies (i.e., smart abilities) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues that Robert's stations do not possess smart abilities as components of Applicant's claimed invention. The Office is unable to find where the applicant has claimed such smart capabilities. Moreover, the adjective smart is a very relative term that is open to interpretation. Finally, applicant is reminded again that the claims are examined under the broadest reasonable interpretation. The Office's interpretation of smart may be different from that of the applicant's, but both interpretations may still be reasonable.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian Chang whose telephone number is (571) 272-8631. The examiner can normally be reached on Monday thru Friday 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JC



BUNJOB JAROENCHONWANIT  
SUPERVISORY PATENT EXAMINER

8/3/17